

# Inputs for the Green Climate Fund Environmental and Social Management System (ESMS)

*This submission fulfils a request made by the Secretariat for public input on elements for the development of the GCF ESMS in response to Board decision B.07/02, paragraph (n) and an approved outline for the Fund's ESMS. The input below is provided on behalf of the organizations listed below. This submission should be read as a work in progress.*

## Introduction

The Environmental and Social Management System (ESMS) should include procedures and processes to identify, assess and manage environmental and social risks; concretely describe the roles, responsibilities and capabilities of all stakeholders involved; and provide clear guidelines on monitoring and reporting activities.

The ESMS should not be understood as a narrow set of policies, principles and standards focusing only on environmental and social safeguards, but as a comprehensive system of interlocking and mutually reinforcing operational policies and procedures, due diligence and compliance systems. This includes GCF operational policies and procedures addressed elsewhere but which have crucial interlinkages, such as the Gender Policy, Information Disclosure Policy, Accountability Mechanisms, especially the Independent Redress Mechanism, Initial Monitoring and Accountability Framework, Communication Strategy and still-to-be-developed guidelines for stakeholder engagement and participation.

The ESMS should define clear objectives and mandatory implementation measures, which includes providing a robust structure for managing the operational risks of the GCF; ensuring the environmental and social soundness and gender-responsiveness of GCF operations; giving solutions for addressing environmental and social issues, including gender, in GCF operations; identifying environmental and social risks and preventing environmental and social impacts under a “do no harm” approach, taking into account different impacts on men and women; establishing mandatory requirements for stakeholder engagement which is gender-responsive and disclosure of information; and improving the effectiveness of results on the ground.

Given the GCF's mandate of preventing and alleviating the impacts of climate change, the ESMS must be designed in a way that not only meets, but, exceeds the environmental and social safeguards of other multilateral financial institutions<sup>1</sup>. This is bedrock to the GCF being a

---

<sup>1</sup> For example the Asian Development Bank includes the following requirements:

genuinely transformational institution and an essential component differentiating the GCF within the broader climate finance and multilateral finance landscape.

Additionally, as a body within the UN system, the GCF should adopt a “rights-based approach,” similar to other UN agencies and funds (such as the Adaptation Fund). It must not be limited to standards adopted by other international financial institutions. Similarly, the GCF is an operating entity of the financial mechanism of the UNFCCC, and as such, its policies and procedures must be in line with UNFCCC decisions. For example, all REDD+ projects supported by the GCF should follow the existing COP decisions relevant for REDD+. In the case of REDD+ projects affecting Indigenous Peoples, the Free, Prior and Informed Consent Guidelines adopted by the UN-REDD Programme should apply.

As many GCF policies and procedures are yet to be developed, or are in the process of development, **sequencing** is key. The ESMS should be carefully coordinated with the development of the GCF’s own to-be-developed environmental and social safeguards.

The GCF ESMS should also include an **Indigenous Peoples Policy** that spell out the principles and criteria that the GCF will apply to ensure that its operations do no harm to Indigenous Peoples, respect international human rights obligations and standards, as regards, among others, Indigenous Peoples’ rights to land, territories and resources, and recognizes and fosters Indigenous Peoples’ traditional knowledge systems and traditional ecosystem management systems’ contributions to adaptation and mitigation.

## I. Environmental and social policy

The environmental and social policy should comprise the overall mandatory environmental and social requirements for each GCF activity.

- 
- Maintaining MDB **responsibility for conducting due diligence**, project categorization and oversight and acts to ensure **client compliance** with environmental and social requirements;
  - Banning **the use of client safeguard systems for “highly complex and sensitive projects”** and requiring public comment on MDB analysis of client safeguard systems, including client environmental and social track record, prior to approval.
  - Requiring **mandatory disclosure of** environmental assessments for projects and subprojects likely to have significant impacts **120 days** prior to approval.<sup>1</sup>
  - Requiring environmental assessments be conducted for **all components of all projects, regardless of funding sources**;
  - A suite of relatively detailed rules for **Financial Intermediaries**, necessitating full application of MDB safeguards, **including information disclosure and consultation**;
  - Detailed **gender-sensitive requirements**.
  - Robust definition of **“meaningful consultation”** procedures, with materials and consultations to be provided **“in a form and language(s) understandable to affected people** and other stakeholders.”
  - **A detailed Prohibited Activities List** which clearly states that “The following do not qualify for financing”, including “production of or trade in radioactive materials, including **nuclear reactors** and components thereof;” activities to harm tropical forests, and “production or activities involving harmful or exploitative forms of forced labor or child labor.”

The GCF should pursue a “rights-based approach” to its activities and operations, ensuring that its environmental and social policy contains the following commitments to:

- 1) Deliver social, environmental and sustainable development benefits, including toward gender equality, in a way that not only meets, but, exceeds the environmental and social safeguards of other multilateral financial institutions, through its operations and activities, while complying with international social, environmental, labor, human and gender rights standards and obligations;
- 2) Identify social and environmental risks in a transparent manner and structure activities to ensure a “do no harm” outcome; and
- 3) Set out the objectives, mandatory implementation measures which are recorded in all contracts and subcontracts, and desired outcomes to guide the processes and procedures that comprise the ESMS.

The environmental and social policy of the GCF should include the following:

- **Purpose:** A description of the purpose of the policy, which should facilitate achievement of the Fund’s commitment to promote the paradigm shift towards low emission and climate-resilient development pathways, through a system that integrates sound environmental and social management into all GCF operations under a “do no harm” approach and respects internationally accepted human and gender equality rights.
- **Multiple benefits:** Recognition that achieving positive social, environmental and sustainable development benefits via a gender-responsive approach is a fundamental goal of the Fund. The policy should include a core commitment to promoting projects/programs with high environmental, social and sustainable development benefits.
- **Integration and clarity of roles/responsibilities:** A clear articulation of how the policy will be comprehensively integrated throughout the operations of the Fund, including in accreditation and proposal development, as well as in project/program approval, implementation and monitoring and accountability processes. The roles and responsibilities of all relevant actors should be clearly prescribed.
- **Country ownership:** Commitment to invest in capacity building of National Designated Authorities and national/sub-national implementing entities, especially in their capacity to engage proactively with local stakeholders, including marginalized and vulnerable populations, women and Indigenous Peoples.
- **Exclusion list:** Clear prohibition of support for activities that pose serious risks and harms to the environment and communities, including: those already identified in MDB exclusion lists such as trade in weapons and munitions, support for nuclear power, harm to tropical

forests, and use of forced or child labor; land acquisition without Free, Prior and Informed Consent; and, given the GCF's climate mandate, financing fossil fuels and other forms of unsustainable energy sources, for example waste incinerators, large dams, and bioenergy with carbon capture and storage (BECCS).

- **Environmental and Social Safeguards:** The GCF's own safeguards (to be designed within three years of the Fund becoming operational) should be developed through a fully participatory, gender-responsive and comprehensive public consultation process within an adequate timeframe that allows for several review and improvement phases. Given the need for "upward harmonization" with the highest protections, GCF safeguards certainly must not continue to be weaker than the most robust safeguards of other financial institutions.<sup>2</sup> The weakened version of the IFC's Performance Standards currently in place at the GCF provides far weaker protections than the safeguards in place at other multilateral institutions and therefore should not be considered for future use by the GCF.
- **Implementation and compliance:** The GCF ESMS must include effective systems to ensure robust due diligence to ensure effective triggering and compliance with safeguard requirements for each project proposal under consideration for possible funding. Where projects are approved, the ESMS must include well-resourced mechanisms and incentives for effective implementation, monitoring and evaluation of safeguards.

---

<sup>2</sup> For example, the GCF must not have weaker requirements than the following ADB requirements:

- The **ADB maintains responsibility for conducting due diligence**, project categorization and oversight;
- The ADB **supports the strengthening and use of Country Systems** for ADB projects, with a **mandatory, clear and extensive review system** to determine the equivalency of Country Systems with ADB safeguards, prior to ADB agreement for their use. ADB **requires public input** into ADB determination of CSS equivalency, **bans the use of borrower systems for "highly complex and sensitive projects,"** underscores ADB responsibility for due diligence, and provides detailed requirements. (Note: World Bank also has detailed CSS Equivalency Requirements – See OP 4:00, especially 6-page Table A1 describing required CSS assessment methodology.)
- Mandatory **disclosure 120 days** prior to Board vote for environmental assessments for projects and subprojects likely to have significant impacts prior to approval. This was underscored by the input of affected communities across Asia, which emphasized their need for significant time to overcome the many barriers to enable them to process and respond to information on proposed projects which could dramatically impact their lives and livelihoods;
- The requirement that environmental assessments be conducted for **all components of all projects, regardless of funding sources;**
- The requirement that the Bank conducts due diligence and ensures **client compliance** with environmental and social requirements;
- A suite of relatively detailed rules for **Financial Intermediaries**, necessitating ADB management approval of category A subprojects, and full application of ADB safeguards, **including information disclosure and consultation;**
- Relatively detailed **gender-sensitive requirements.**
- Relatively robust definition of "**meaningful consultation**" procedures, with materials and consultations to be provided "**in a form and language(s) understandable to affected people** and other stakeholders. For illiterate people, other suitable communication methods will be used."
- The ADB's **Prohibited Activities List** clearly states that "The following do not qualify for Asian Development Bank financing", including "production of or trade in radioactive materials, including **nuclear reactors** and components thereof;" and "production or activities involving harmful or exploitative forms of forced labor or child labor."

- **A consideration of accredited entities’ entire portfolio of activities:** As a financial mechanism of the UNFCCC the GCF is obliged to fulfil the objectives of the Paris Agreement adopted at COP 21 including, in Article 2.1(c), the objective of “making finance flows consistent with a pathway towards low greenhouse gas emissions and climate resilient development.” The GCF Board has emphasized the critical role the Fund can play in leveraging its resources to effect changes in broader patterns of investment, beyond direct support from the GCF. Towards that end, the GCF has a critical role to play in encouraging its accredited entities to make the necessary portfolio shifts to realize the new objectives under the UN Climate Convention. Considering the portfolio of entities to ensure they align with climate objectives, and tracking their progress over time, would be a strong first step in this direction.

## II. Environmental and social assessment and management procedures and processes; including review of institutional capacities of entities during the accreditation process and categorization of funding proposals by accredited entities

Accredited and executing entities should undertake an environmental and social assessment process with an analysis that is proportional to the nature and magnitude of the activity’s potential risks and impacts. Given the “do no harm” approach, the environmental and social assessment process should include an open, public process to identify all environmental or social risks and ensure an outcome of no significant negative environmental or social impacts.

Some of the key procedures that should be included as part of the GCF ESMS are:

- **Environmental Risk Category:** The ESMS should provide detailed, unambiguous guidance, objective criteria and instructions for:
  - (1) How - and on what basis – risk categories (i.e. A, B or C) are to be assigned. GCF should maintain responsibility for risk categorization.
  - (2) Due diligence procedures by the Secretariat to ensure appropriate risk categorization to avoid the problem of deliberate project risk miscategorization (such as deliberate underestimation of risk), a problem present at a number of multilateral development banks.<sup>3</sup> Project categorization has an effect on the quality and quantity of environmental studies, public consultations, reporting, and supervision frequency, alerting stakeholders to the risks of irreversible and unprecedented impacts to communities.<sup>4</sup> Further, the ESMS should include a procedure by which stakeholders may challenge an accredited entity’s risk categorization of a funding proposal. In line with the “do no harm” mandate, the GCF

---

<sup>3</sup> The Independent Evaluation Group (IEG) of the World Bank Group has reported on the causes and ramifications of miscategorization due to the avoidance of risks and environmental and social costs. Particularly in the Evaluative Directions for the World Bank Group’s Safeguards and Sustainability Policies report from 2011. <https://www.openknowledge.worldbank.org/handle/10986/2339>

<sup>4</sup> Evaluative Directions for the World Bank Group’s Safeguards and Sustainability Policies, IEG 2011 at p.11.

should not support projects/programs with potential significant adverse social or environmental impacts that are diverse, irreversible or unprecedented. We thus encourage the Board to ban funding proposals for Category A (i.e. the highest risk) projects/programs.

- **Procedures to Screen Projects and Programs:** All project/program activities, regardless of source of finance<sup>5</sup>, should be assessed against the GCF exclusion list. If the project/program involves any activity contained within the exclusion list, then it should be immediately eliminated from any consideration for financial support. An entity's social and environmental record, including any record of or connection with human rights violations or creation of significant environmental or social impacts in previous project/program implementation or its general operations, should also be assessed, with the assessment made public for comment well prior to decision-making, as part of due diligence during the appraisal process to decide whether or not a project/program may receive funding.
- **Due-Diligence to Evaluate Environmental and Social Risks:** GCF must maintain responsibility for due diligence. The appropriate roles and responsibilities of various actors to ensure that project/program proposals fully comply with all GCF policies and standards - and with all applicable local, national and international laws - must be comprehensively elaborated. Higher risk projects/programs require more thorough initial assessment and public comment on assessments and must result in heightened scrutiny (such as spot check and site visits, withholding or delay in disbursement of payment tranches, etc.) than lower risk projects/programs. It is therefore essential that the Secretariat, in considering future staffing needs, increases the number of staff with relevant social, gender and environmental expertise and background. Such expertise should be considered core for Secretariat staff and not largely "outsourced" to accredited entities or outside consultants.
- **Information Disclosure:** The Fund's standards should ensure that all information related to environmental and social risks and impacts in GCF operations and projects/programs under consideration is provided in a timely manner before consultations, information being disclosed at a minimum of 45 days in advance of Board decisions for low risk projects and for a minimum of 120 days in advance for projects with significant impacts; in forms and languages that are understandable to project-affected people and other stakeholders; and in an accessible place through a culturally appropriate method allowing for meaningful and ongoing stakeholder commentary, input and participation. The information disclosure standards should also take into account any specific needs of groups that may be differentially or disproportionately affected by the project/program, including marginalized segments of the population with specific information needs (such as literacy, gender, differences in language or accessibility to technical information, etc.).

---

<sup>5</sup> This is a basic requirement found in, for example, the ADB Safeguard Policy Statement. GCF should not have weaker safeguards than other MDBs.

- **Process for Stakeholder engagement:** The GCF should develop and implement a mandatory, comprehensive, socially inclusive, gender-responsive and culturally appropriate stakeholder engagement process for the design, development and implementation of GCF project and programs, including at the local and national levels.

### III. Monitoring and reporting (also refer to the GCF monitoring and accountability framework)

The GCF ESMS should include appropriate procedures to monitor progress in the implementation of, and compliance with, the Fund’s environmental and social measures, including the following:

- **Independent monitoring and evaluation:** An effective and participatory ESMS must institutionalize independent third party monitoring and acknowledge, in particular, the positive contribution of participatory monitoring, in line with paragraph 57<sup>6</sup> of the Governing Instrument. Third-party monitoring is a fundamental way to supplement reporting from executing entities; without it, externalities may be overlooked and impacts would not be independently verifiable. Additionally, mandatory environmental and social performance indicators should be established, when results and outcomes are routinely reported, including upon completion. For example, Community Based Monitoring and Information Systems developed and implemented by Indigenous Peoples and other affected communities could play a strong role. Community feedback and participatory monitoring should be sustained through the development of a grant support program.

The current GCF Monitoring and Accountability Framework relies too heavily on self-monitoring and self-reporting by Accredited Entities, leading to high risks to affected communities and the environment. Self-monitoring has been shown to be unreliable and especially in the context of financial intermediaries.<sup>7</sup> The current Framework does not place enough focus on GCF due diligence measures or supervision site visits conducted by GCF staff, which are seen more as “spot checks” rather than as a regular part of the monitoring and accountability process. Furthermore, the Framework overly focuses on information-processing between the GCF Secretariat and the AE. In addition to requiring GCF due diligence responsibilities, third party monitoring through independent expert review and community feedback is thus even more important and should be significantly strengthened within the ESMS.

---

<sup>6</sup> Para 57: *The programmes and projects, as well as other activities, funded by the Fund will be regularly monitored for impact, efficiency and effectiveness in line with rules and procedures established by the Board. The use of participatory monitoring involving stakeholders will be encouraged.*

<sup>7</sup> See, for example, findings of CAO on failed self-monitoring and self-assessment, including a January 2016 report on an Indian IFC Financial Intermediary ([http://www.cao-ombudsman.org/cases/case\\_detail.aspx?id=165](http://www.cao-ombudsman.org/cases/case_detail.aspx?id=165)) and the CAO overview of the IFC’s FI portfolio.

- **Grievance mechanism:** At a minimum, grievance mechanisms should be built on the "effectiveness criteria"<sup>8</sup> set forth in the Guiding Principles on Business and Human Rights unanimously approved by the UN Human Rights Council. These include: legitimacy, accessibility, predictability, equitability and fairness, transparency, rights compatibility, a source of continuous learning, and a base that relies on engagement and dialogue. Every grievance mechanism should embody these principles and serve as a means for ensuring accountability and redress.

The extent to which GCF staff is informed about potential project-based grievances by affected communities -- and AE efforts to address the concerns raised -- depends almost entirely on the quality of AE-reporting. It is therefore crucially important that the Independent Redress Mechanism (IRM) remains easily accessible for project-affected people without a requirement that they go through national/local and AE channels first. This should be clearly spelled out in the Accreditation Master Agreements signed between the GCF and accredited entities. In addition, the Secretariat should consider strengthening internal early and rapid prevention and response measures (such as acting without delay on red flag warnings of project-affected people during the implementation process before harm is done) in the further refinement of the Monitoring and Accountability Framework and its implementation practice.

- **Clearly-defined mandates and interactions between accountability units:** The Fund's governance must ensure robust checks and balances and independent oversight of the Fund's operations, funded activities and finance flows. This can only occur when a clear delineation of responsibilities and accountability has been established within the mandate and procedural guidelines of each of the three accountability units. It is therefore crucial for the integrity of the Fund that the three independent accountability units - the Independent Integrity Unit, Independent Redress Mechanism and Independent Evaluation Unit – are set up expeditiously, and are independent, accessible, transparent and effective; operate in synergy; and include anti-corruption reviews at the country level.

#### IV. Organisational capacities and functions, including roles and responsibilities within the GCF and between various entities

The GCF ESMS should provide comprehensive rules about the differing and complementary responsibilities of various entities engaged in GCF project/program development and implementation across all aspects of the ESMS, and should identify and close existing gaps in due diligence procedures.

- **National Designated Authorities:** Beyond providing a no-objection letter, the role of the NDA is often unclear. The NDA is the basic in-country unit of the GCF, and should be the nexus for country ownership, which is among the top defining features of the GCF. It is thus critical for

---

<sup>8</sup> See UN Guiding Principles on Business and Human Rights, principle 31 (a)-(h).

the ESMS to address the responsibilities of the NDA in-country, and its relationships to Accredited Entities, Executing Entities, Board, Secretariat and other arteries of the GCF.

- **Implementing and Executing Entities:** The responsibilities of implementing and executing entities must be clearly spelled out; they must not simply be subsumed in the ESMS under the responsibilities of the Accredited Entities. In particular, their role in ensuring continuous engagement with local stakeholders and implementation of all safeguard measures during project/program implementation must be made obligatory and detailed in all contracts and sub contracts. In addition, their implementation records, particularly with respect to prior violations of safeguards and human rights violations, must be publicly disclosed for comment prior to decision-making regarding GCF support.
- **Gaps:** Once there is greater clarity on roles and responsibilities, including full GCF responsibility for due diligence, as well as interlinkages among the various areas of the GCF, then gaps can be more easily identified and addressed. Gaps may include (1) adequate procedures to ensure assignment of appropriate risk categorization of funding proposals, and (2) preventing risks from turning into harm to communities or the environment and (3) ensuring affected communities' unhindered ability to raise concerns via the Independent Redress Mechanism.

### **Endorsements**

Accountability Counsel

ActionAid USA

Aksi! for gender, social and ecological justice

Asian Peoples' Movement on Debt and Development

Both ENDS

CAFOD

CEE Bankwatch Network

Center for International Environmental Law

Climate Action Network - South Asia

Coastal Livelihood and Environmental Action Network (CLEAN), Bangladesh

Forest Peoples Programme

Friends of the Earth U.S.

Germanwatch

Global Alliance for Incinerator Alternatives

Green Development Advocates, Cameroon

Heinrich Böll Stiftung North America

Institute for Policy Studies Climate Policy Program

Interamerican Association for Environmental Defense (AIDA)

International Trade Union Confederation

Kitanglad Integrated NGOs, Inc. (KIN)

Nature Code

Pan African Climate Justice Alliance

Rainforest Action Network

Rainforest Foundation Norway  
Sahabat Alam Malaysia/Friends of the Earth Malaysia  
Tebtebba (International Indigenous Peoples' Centre for Policy Research and Education)  
Third World Network  
Ulu Foundation  
Women's Environment & Development Organization  
Worldview-The Gambia  
Zero Waste Europe

**Contact Information:**

Andrea Rodriguez Osuna  
Senior Attorney  
Interamerican Association for Environmental Defense (AIDA)  
Atlixco 138, Colonia Condesa, Mexico City, Mexico  
+52 5212-0141  
Arodriguez@aida-americas.org

Karen Orenstein  
Senior Analyst  
Friends of the Earth U.S  
1101 15th Street NW 11th Floor  
Washington, DC 20005  
Phone: 202-783-7400  
Fax: 202-783-0444 –  
KOrenstein@foe.org

February 15, 2016